IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN
JAIPUR BENCH
S.B. Civil Writ Petition No.7973/06
M/s Madan Lal Gupta, Bharatpur
Vs.
CIT, Alwar & Anr.

17.04.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri P.K. Kasliwal for petitioner.
Smt. Parinitoo Jain for respondent.

Shri P.K. Kasliwal, the learned counsel for the petitioner cited the judgment of division bench of this Court in Chain Sukh Rathi Vs. Commissioner of Income Tax & Anr., D.B. Income Tax Appeal No.23/2000 decided on 9.9.2003 in which the division bench of this court has held as under-

> "when some material was seized connecting the concealed income, the Income Tax Officer can compute the income on that basis but that should be

> computed and taxed in accordance with the provision of Act, 1961, therefore, the tax exemption limit has to be kept in mind and to that extent, income not chargeable to tax, the tax should not be charged on that part of the income."

Learned counsel for the petitioner therefore submits that while setting aside the impugned order the matter should be remanded back to the Assessing Officer to decide the application in accordance with the directions given in the aforesaid division bench judgment. He also cited a judgment of the co-ordinate bench of this Court in Rajendra Prasad Gupta Vs. Union of India & Anr., S.B. Civil Writ Petition No.6815/04 wherein in similar circumstances, this Court while setting aside the impugned order therein remanded the matter back to the Assessing Officer.

Smt. Parinitoo Jain, the learned

counsel for the respondent although opposed the writ petition but could not dispute the basic issue that the ratio of the division bench judgment in Chain Sukh Rathi (supra) squarely applies to the facts of the case.

Having heard the leaned counsel for the parties and perused the aforesaid judgments and the material on record, I deem it appropriate to remand the matter back to Assistant Commissioner, Bharatpur for deciding the application of the petitioner in accordance with law keeping in view th aforesaid discussion.

The petition stands disposed of with the above observations.

(Mohammad Rafiq),J.

Rs/-